

ORDINANCE NO. 1786

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND AMENDING PART 3, WATER CONSERVATION, SECTIONS 7730 - 7743 OF THE UPLAND MUNICIPAL CODE.

THE CITY COUNCIL OF THE CITY OF UPLAND DOES HEREBY ORDAIN AS FOLLOWS:

WHEREAS, the City Council is concerned that our precious water resources are protected so that city water users can expect to receive a reliable supply of quality water on demand; and

WHEREAS, the City has a responsibility to provide water to residents through the creation and maintenance of the infrastructure necessary to pump, store and distribute water; and

WHEREAS, the City of Upland Municipal Code has not been updated since 1992 to incorporate changes in technology and best management practices.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UPLAND, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby amends Section 7730-7743 of the Upland Municipal Code as follows:

**PART 3. WATER CONSERVATION**

**Section 7730.00. Generally**

.010 *Declaration of policy.* It is hereby declared that because of the water conditions prevailing in the city, the general welfare requires that the water resources available to the City, Region and State be put to the maximum beneficial use, that the waste or unreasonable use of water be prevented, and that the conservation of water is to be encouraged at all times.

.020 *Authorization.*

The City Manager shall request the City Council to declare that demand for water is anticipated to be in excess of supply, immediately after it appears that such a situation exists or is threatened, if the City Council is in session. If the council is not in session, the City Manager shall immediately cause a request for a special meeting of the City Council to be delivered to each council person who can be located.

The City Council shall have the power to declare the necessity to implement the applicable provisions of this part when in their opinion the demand for

water consumption exceeds the city's available supply (allowing for a safe reserve), or threatens to do so, provided there are no immediate resources available to remedy the situation. Said declaration shall be made by public announcement and shall be published in a newspaper of general circulation and shall become effective immediately upon such publication.

**.030 *Application.***

The provisions of this chapter shall apply to all persons, customers within the City of Upland, or property utilizing city water wherever situated.

**.040 *Presumption.***

For purposes of this chapter, it shall be presumed that a person, corporation or association in whose name the water utility of the city is or was last billed or who is receiving the economic benefit of said water supply has knowingly made, caused, used or permitted the use of water received from the city for a purpose in a manner contrary to any provision of this chapter.

**Section 7731.00. Penalties**

**.010 *Compliance; guidelines.***

No customer of the City of Upland or person who uses water within the City of Upland shall knowingly use, or permit the use of water in a manner contrary to any provision of this part, or in an amount in excess of that use permitted by the provisions of this chapter or that is reasonably necessary to satisfy the water usage need.

Unless otherwise provided, any person, firm or corporation violating any provision of said Chapter 7 as adopted by reference above, other than the provisions of section 7737 through 7740 of this Code, shall be guilty of an infraction or misdemeanor as hereinafter specified at the City's discretion, and each day or portion thereof such violation is in existence shall be a new and separate offense.

Any person so convicted shall be:

**.020** Guilty of an infraction offense and punished by a fine of not less than twenty-five dollars (\$25.00) but not exceeding fifty dollars (\$50.00) for a first violation during any calendar year or declared conservation stage, whichever time period is shorter in duration;

**.030** Guilty of an infraction offense and punished by a fine not less than fifty dollars (\$50.00) and not exceeding one hundred dollars (\$100.00) for a second violation during any calendar year or declared conservation stage, whichever time period is shorter in duration;

**.040** On conviction of a third violation, guilty of a misdemeanor offense and shall be punished by a fine not less than five hundred dollars (\$500.00) nor more

than one thousand dollars (\$1,000.00) during any calendar year or declared conservation stage, whichever time period is shorter in duration.

- .050 Notwithstanding the above, first or second offense may be charged and prosecuted as a misdemeanor at the City's sole discretion. In addition to the above penalties, such convicted person, firm, corporation or other entity may, in the discretion of the court, be ordered to reimburse the city for all necessary costs incurred through investigation, discovery, analysis, inspection, abatement and other actual costs incurred by the city or its agents pertaining to the violation.

The court shall fix the amount of any such reimbursements upon submission of proof of such costs by the city. Payment of any penalty herein provided shall not relieve a person, firm or corporation, or other entity from the responsibility of correcting the condition resulting from the violation.

- .060 In addition to the above, the water utility director is hereby empowered to enact other penalties and restrictive measures that are intended to abate the conductor circumstances comprising the violation, including but not limited to the following: placement of a flow restricting device upon the water service, locking off of water meter, removal of water meter, and shutting off of the service line valve.

#### **Section 7732.00. Conservation Program – Year Round Stage**

The following activities are hereby prohibited:

- .010 The washing of sidewalks, walkways, driveways, public and private parking areas and all other impervious hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety;
- .011 Excessive or unreasonable run off of water or unreasonable spray of the areas being watered. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of this water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;
- .020 Allowing, permitting or causing the escape of water through breaks or leaks within the customers plumbing or private water distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the city of a break or leak, is a reasonable time within which to correct such break or leak, or, at a minimum, to stop the flow of water from such break or leak;

- .030 Outdoor irrigation of landscape by sprinklers during the hours of 10:00 a.m. to 6:00 p.m. Citizens are encouraged to avoid the use of sprinklers on windy days. Irrigation by hand held hose, drip irrigation, hand held bucket, or similar container or by use of a cleaning machine equipped to recycle any water used are permitted anytime. In no event shall any water so used be permitted to run off into adjacent property, streets, alleys or storm drains;
- .040 Washing of automobiles, trucks, trailers, boats, airplanes, and other types of equipment (mobile or otherwise) unless done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use to ensure the water supply is shutoff. However, this section does not apply to the washing of the above-listed vehicles or mobile equipment when conducted on the immediate premises of a commercial carwash;
- .050 All eating and drinking establishments of any kind including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall not provide drinking water to any person unless expressly requested.
- .060 *Exceptions:* None of these restrictions shall apply to the following:
  - .061 The routine and necessary use of water, other than for landscape irrigation, by a governmental entity in pursuit of its governmental functions for the benefit of the public, such as construction projects and for the cleaning of streets to prevent debris and harmful substances from entering water systems via storm drains;
  - .062 The necessary use of water for the routine maintenance and/or repair of water distribution facilities, residential and commercial plumbing and permanently installed landscaped irrigation systems.

### **Section 7733.00. Conservation Program – Moderate Shortage Stage**

In the event the City Council determines that the measures outlined in section 7732.00 fail to produce a sufficient reduction in demand so as to produce a sufficient supply, the use of water within the city shall be additionally restricted and the following provisions shall become effective upon a declaration by the City Council and publication of same as follows:

- .010 The washing of sidewalks, walkways, driveways, public and private parking areas and all other impervious hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety;

- .020 Excessive or unreasonable run off of water or unreasonable spray of the areas being watered is prohibited. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of this water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;
- .030 Allowing, permitting or causing the escape of water through breaks or leaks within the customers plumbing or private water distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the city of a break or leak, is a reasonable time within which to correct such break or leak, or, at a minimum, to stop the flow of water from such break or leak;
- .040 Outdoor irrigation of landscape by sprinklers is permitted only on even days of the month for those locations having a street address with an even last digit. Outdoor irrigation by sprinklers is permitted only on odd days of the month for those locations having a street address with an odd last digit. Outdoor irrigation for locations not having a street address shall occur on even days of the month if located west of San Antonio Avenue or only on odd days of the month if located east of San Antonio Avenue. No outdoor irrigation shall take place between the hours of 10:00 a.m. and 6:00 p.m. Irrigation by hand held hose, drip irrigation, hand held bucket, or similar container or by use of a cleaning machine equipped to recycle any water used are permitted anytime. In no event shall any water so used be permitted to run off into adjacent property, streets, alleys or storm drains;
- .050 *Washing of vehicles, trailers, boats, airplanes and mobile equipment:*
  - .051 The washing of automobiles, trucks, trailers, boats, airplanes and other types of equipment (mobile or otherwise) is prohibited except on the designated outdoor water use days pursuant to section 7733.030 between the hours of 12:00 midnight to 12:00 noon and sundown to 12:00 midnight. Such washing, when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use to ensure the water supply is shutoff;
  - .052 No individual, firm or business that regularly washes vehicles for remuneration or provides facilities for customers to do so through coin operated machinery shall be permitted to operate such a business unless their place of business is equipped and operating to approved city standards with equipment to recycle water for use within their facility;
  - .053 Trucks, trailers and other types of mobile equipment (such as garbage trucks and vehicles used to transport food and other perishables) when

said washing is necessary in order to protect the health, safety and welfare of the public, shall be restricted to the hours of sundown to noon. Such washing, when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use;

- .054 Nonprofit and community based organizations' fundraising car washes shall be allowed, provided they are otherwise in accordance with all other provisions of the Upland Municipal Code and this section, and have obtained a permit to operate a nonprofit carwash from the Finance Department, the cost of same to be five dollars (\$5.00), which sum is found to cover the City's costs to issue said permit. Such activities shall be limited to no more than two (2) times in one (1) month. Permit shall become void upon the effective date of the declaration of severe shortage.
- .060 All eating and drinking establishments of any kind including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person unless expressly requested.
- .070 The refilling or adding of water to swimming pools is prohibited except on designated outdoor water use days, which shall be the same days as outdoor watering is permitted pursuant to section 7733.030.
- .080 Any non-business, operation related pond, ornamental fountain or other structure making similar use of water is prohibited.
- .090 The irrigation of golf course fairways is prohibited. This section shall not apply to the irrigation of any golf course solely with reclaimed wastewater.
- .100 The use of water from fire hydrants shall be limited to firefighting and emergency related activities and/or other activities necessary to maintain the health, safety, and welfare of the citizens of Upland. This restriction shall not apply to businesses, which require the use of water for land development and building construction processes, pursuant to prior written approval by the Review Board as defined in section 7736.00.
- .110 *Exceptions:* None of the moderate shortage restrictions shall apply to the following uses of water:
  - .111 The routine and necessary use of water, other than for landscape irrigation, by a governmental entity in pursuit of its governmental functions for the benefit of the public, such as construction projects and for the cleaning of streets to prevent debris and harmful substances from entering water systems via storm drains;

- .112 The routine and necessary use of water, other than for landscape irrigation, for land development (e.g., roadway base preparation, flushing of utility lines, dust control, concrete and asphalt work) and for building construction processes;
- .113 The necessary use of water for the routine maintenance and/or repair of water distribution facilities, residential and commercial plumbing and permanently installed landscape irrigation systems;
- .114 The use of water necessary to irrigate large, landscaped areas in commercial and institutional establishments as authorized by the terms and conditions of an approved compliance agreement issued by the Review Board, as defined in section 7736.00;
- .115 The use of water pursuant to the approved terms and conditions of a variance granted by the Review Board as defined in section 7736.00.

#### **Section 7734.00. Conservation Program – High Shortage Stage**

In the event the City Council determines that the measures outlined in section 7733.00 fail to produce a sufficient reduction in demand so as to produce a sufficient supply, the use of water within the city shall be additionally restricted and the following provisions shall become effective upon a declaration by the City Council and publication of same as follows:

- .010 The washing of sidewalks, walkways, driveways, public and private parking areas and other impervious hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety is prohibited;
- .020 Excessive run off of water or unreasonable spray of the areas being watered is prohibited. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of this water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;
- .030 Allowing, permitting or causing the escape of water through breaks or leaks within the customers plumbing or private water distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the city of a break or leak, is a reasonable time within which to correct such break or leak, or, at a minimum, to stop the flow of water from such break or leak;

- .040 Outdoor irrigation of landscape by sprinklers is permitted only on Wednesday and Sunday for those locations having street address with an even last digit. Outdoor irrigation by sprinklers is permitted only on Tuesday and Saturday for those locations having a street address with an odd last digit. Outdoor irrigation for locations not having a street address shall occur on Wednesday and Sunday if located west of San Antonio Avenue or only on Tuesday and Saturday if located east of San Antonio Avenue. No outdoor irrigation shall take place between 6:00 a.m. until one (1) hour before sundown. Irrigation by hand held hose, drip irrigation, or hand held bucket or similar container or by use of a cleaning machine equipped to recycle any water used are permitted anytime. In no event shall any water so used be permitted to run off into adjacent property, streets, alleys or storm drains;
- .050 *Washing of vehicles, trailers, boats, airplanes and mobile equipment:*
- .051 The washing of automobiles, trucks, trailers, boats, airplanes and other types of equipment (mobile or otherwise) is prohibited except on the designated outdoor water use days pursuant to section 7734.040 between the hours of 12:00 midnight to 12:00 noon and sundown to 12:00 midnight. Such washing, when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use to ensure the water supply is shutoff;
- .052 No individual, firm or business that regularly washes vehicles for remuneration or provides facilities for customers to do so through coin operated machinery shall be permitted to operate such a business unless their place of business is equipped and operating to approved city standards with equipment to recycle water for use within their facility;
- .053 Trucks, trailers and other types of mobile equipment (such as garbage trucks and vehicles used to transport food and other perishables) when said washing is necessary in order to protect the health, safety and welfare of the public, shall be restricted to the hours of sundown to noon. Such washing, when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use;
- .054 Nonprofit and community based organizations' fundraising car washes shall be allowed, provided they are otherwise in accordance with all other provisions of the Upland Municipal Code and this section, and have obtained a permit to operate a nonprofit carwash from the Finance Department, the cost of same to be five dollars (\$5.00), which sum is found to cover the City's costs to issue said permit. Such



activities shall be limited to no more than two (2) times in one (1) month. Permit shall become void upon the effective date of the declaration of severe shortage.

- .060 All eating and drinking establishments of any kind whatsoever including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person unless expressly requested.
- .070 The refilling or adding of water to existing swimming pools is prohibited except on designated outdoor water use days which shall be the same days as outdoor water is permitted pursuant to section 7734.040. New pool construction filling shall be by permit only.
- .080 Any non-business, operation related pond, ornamental fountain or other structure making similar use of water is prohibited.
- .090 The waters of golf course tee areas and fairways is prohibited unless done with reclaimed wastewater.
- .100 The use of water from fire hydrants shall be limited to firefighting and emergency related activities and/or other activities necessary to maintain the health, safety, and welfare of the citizens of Upland. This restriction shall not apply to businesses, which require the use of water for land development and building construction processes, pursuant to prior written approval by the Review Board as defined in section 7736.00.
- .110 *Exceptions:* None of the high shortage restrictions shall apply to the following uses of water, provided there is prior written approval by the Review Board as defined in section 7736.00:
  - .111 The routine and necessary use of water, other than for landscape irrigation, by a governmental entity in pursuit of its governmental functions for the benefit of the public, such as construction projects and for the cleaning of streets to prevent debris and harmful substances from entering water systems via storm drains;
  - .112 The routine and necessary use of water, other than for landscape irrigation, for land development (e.g., roadway base preparation, flushing of utility lines, dust control, concrete and asphalt work) and for building construction processes;
  - .113 The necessary use of water for the routine maintenance and/or repair of water distribution facilities, residential and commercial plumbing and permanently installed landscape irrigation systems;
  - .114 The use of water necessary to irrigate large landscaped areas in commercial and institutional establishments as authorized by the

terms and conditions of an approved compliance agreement is issued by the Review Board, as defined in section 7736.00.

**Section 7735.00. CONSERVATION PROGRAM – SEVERE SHORTAGE STAGE**

In the event the City Council determines that the measures outlined in section 7734.00 fail to produce a sufficient reduction in demand so as to produce a sufficient supply, then the use of water within the city shall be additionally restricted and the following provisions shall become effective upon a declaration by the City Council and publication of same as follows:

- .010 The washing of sidewalks, walkways, driveways, public and private parking areas and other impervious hard surfaced areas by direct hosing when runoff water directly flows to a gutter or storm drain, except as may be necessary to properly dispose of flammable or other dangerous liquids or substances, wash away spills that present a trip and fall hazard, or to prevent or eliminate materials dangerous to the public health and safety is prohibited;
- .020 Excessive run off of water or unreasonable spray of the areas being watered is prohibited. Every customer is deemed to have his/her water system under control at all times, to know the manner and extent of this water use and any run off, and to employ available alternatives to apply irrigation water in a reasonably efficient manner;
- .030 Allowing, permitting or causing the escape of water through breaks or leaks within the customers plumbing or private water distribution system for any substantial period of time within which such break or leak should reasonably have been discovered and corrected. It shall be presumed that a period of seventy-two (72) hours after the customer discovers such a break or leak or receives notice from the city of a break or leak, is a reasonable time within which to correct such break or leak, or, at a minimum, to stop the flow of water from such break or leak;
- .040 Outdoor irrigation of landscape by sprinklers is permitted only on Sunday for those locations having street address with an even last digit. Outdoor irrigation by sprinklers is permitted only on Saturday for those locations having a street address with an odd last digit. Outdoor irrigation for locations not having a street address shall occur on Sunday if located west of San Antonio Avenue or only on Tuesday and Saturday if located east of San Antonio Avenue. No outdoor irrigation shall take place between 6:00 a.m. until one (1) hour before sundown. Irrigation by hand held hoses, drip irrigation, or hand held bucket, or similar container or by use of a cleaning machine equipped to recycle any water used are permitted anytime. In no event shall any water so used be permitted to run off into adjacent property, streets, alleys or storm drains;
- .050 *Washing of vehicles, trailers, boats, airplanes and mobile equipment.*

- .051 The washing of automobiles, trucks, trailers, boats, airplanes, and other types of equipment (mobile or otherwise) is prohibited except as provided elsewhere in this section;
- .052 No individual, firm or business that regularly washes vehicles for remuneration or provides facilities for customers to do so through coin operated machinery shall be permitted to operate such a business unless their place of business is equipped and operating to approved city standards with equipment to recycle water for use within their facility. Washing of vehicles in such facilities shall occur only between the hours of 6:00 a.m. and 12:00 noon;
- .053 Trucks, trailers, and other types of mobile equipment (such as garbage trucks and vehicles used to transport food and other perishables) when said washing is necessary in order to protect the health, safety and welfare of the public, shall be restricted to the hours of sundown to 12:00 noon. Such washing when allowed, shall be done with a hand held bucket or hand held hose equipped with a positive shutoff nozzle for quick rinses. The nozzle shall be removed when the hose is not in use.
- .060 All eating and drinking establishments of any kind including, but not limited to, any restaurant, hotel, cafe, cafeteria, bar or club, whether public or private, shall only provide drinking water to any person unless expressly requested.
- .070 Washing sidewalks, driveways, public and private parking areas, tennis courts, patios, or other paved areas, except to alleviate an immediate health hazard is prohibited.
- .080 The refilling or adding of water to existing swimming pools is prohibited except on designated outdoor water use days which shall be the same days as outdoor water is permitted pursuant to section 7735.030. New pool construction filling shall be by permit only.
- .090 Any non-business, operation related pond, ornamental fountain or other structure making similar use of water is prohibited.
- .100 The watering of golf course tee areas and fairways is prohibited unless done with reclaimed wastewater.

#### **Section 7736.00. IMPLEMENTATION**

- .010 *Review board; variances, permits and compliance agreements.* A Review Board is hereby established to review special cases, which cannot follow the letter of this part. Said Review Board shall consist of the Water Utility Direc-

tor, the City Engineer, the Fire Chief, the City Planning Director and the City Attorney, or their appointed representative.

- .011 Appeal of Review Board decisions shall be made to the City Council. It is the purpose of the Review Board to review special cases and to determine whether or not said case warrants a variance, permit or compliance agreement including conditions of approval. Said board shall consider the facts of each case and decide whether to grant a variance or a permit or to enter into a compliance agreement within five (5) working days of the receipt of a properly completed "Application for Variance/Permit/Compliance Agreement" form.
- .012 A variance shall be granted only for reasons of economic hardship, which is defined as a threat to an individual business's primary source of income. (Under no circumstances shall inconvenience or the potential for damage of landscaping be considered an economic hardship, which justifies a variance.) The board shall authorize only the implementation of equitable water use restrictions, which further the purpose and intent of the water conservation plan. The special water use restrictions authorized by the board in each case shall be set forth on the face of the variance, permit or compliance agreement. A nonrefundable fee of fifty dollars (\$50.00) per permit application for all requests shall be assessed to reimburse the City for administrative costs.
- .020 A variance or permit issued under moderate shortage shall not be valid upon implementation of high or severe shortage stages unless the permit specifically addresses either or both of those stages upon initial issuance. Said multi-stage permit would have to reflect significant additional savings of water, or nonuse of water, under progressively more critical shortage stages. A variance or permit shall expire under its own terms and conditions and/or when another water conservation stage is in effect.
- .021 *Exception:* If, within the period of the permit, the conservation stage for which the permit was originally issued is reinstated, the permit will be considered valid until the original expiration date, as long as that conservation stage is in effect.
- .030 Any person, corporation or association who is issued a variance or permit and makes use of water pursuant to said variance, permit or compliance agreement shall provide proof of said variance, permit or compliance agreement upon demand by any peace officer or person authorized by the city to enforce this chapter.
- .040 Upon conviction of a person, corporation or association of violating any provision of this part, the Review Board shall revoke any permit, variance, or compliance agreement previously granted. However, the board shall notify applicant of the proposed revocation five (5) working days before taking such

action, and applicant shall be given the opportunity to be heard by the Review Board prior to its taking such action.

- .050 Persons wishing to appeal the decision of the Review Board shall have the right of appeal to the City Council. Appeal shall be made in writing within ten (10) working days of the Review Board decision. The decision of the City Council shall be final.

#### **PART 4. WATER CONSERVATION RETROFIT**

##### **Section 7737.00. RETROFIT**

- .010 *Findings and objectives.*

.011 Water is a precious commodity of limited supply. The City Council is the trustee of the City's domestic water supply. The general welfare of the citizens of Upland and its environs requires that the water resources available to the city be utilized with maximum efficiency.

##### **Section 7738.00. APPLICATION**

- .010 When the owner(s) of a facility listed in this Section replaces any plumbing fixture as defined in Section 7739.00, the plumbing fixture shall be replaced with a water conserving plumbing fixture as set forth in Section 7739.00 or otherwise required by law. The provisions of this part shall apply to the following facilities:

.011 Single-family residences and apartment buildings:

.012 Commercial buildings;

.013 Hotels and motels;

.014 Health and fitness centers;

.015 Schools and day care centers;

.016 Shopping centers and malls.

- .020 *The provisions of this part shall not apply to the following facilities:*

.021 Facilities equipped with water-conserving plumbing fixtures, which meet plumbing device specifications approved by the city building inspection department, pursuant to this part.

.022 Facilities wherein water use fixtures cannot be retrofitted to achieve further water use reduction, as determined by the Chief Building

Official, pursuant to this part and recorded in the City's permanent records.

- .023 Facilities wherein water use reduction would threaten health and/or safety or historical cultural value of a structure, where such condition is documented by affidavit submitted to and approved by the chief building officials.
- .024 Facilities wherein retrofitting for water use reduction cannot be done so as to ensure a three-year simple pay-back period, as determined by the chief building official on the basis of generally accepted business principles. Simple payback is based upon contractor-installed cost of labor and material.

## **Section 7739.00. DEFINITIONS**

In this chapter, the following special terms have the following meanings:

*Aerator:* A device attached to a faucet outlet which reduces flow by introducing air bubbles into the water stream, thereby reducing the degree of splashing and creating the appearance of a greater flow than actually exists.

*City water utility customer:* Any individual, association, corporation, partnership or entity which obtains all or a portion of its water supply from the city.

*Flow restrictor:* An in-line device incorporated into a faucet to reduce the opening through which water passes, thereby yielding a maximum flow increasing roughly in proportion to water pressure.

*Flush tank water saver:* A flexible, double-edged panel to be used as a dam to withhold part of the flush tank water that would normally drain into the bowl upon flushing.

*Flush valve water saver:* A device installed in flush valves of commercial toilets and urinals in order to shorten the flush cycle and reduce the volume of water flow during flush.

*Low flow self-cleaning showerhead:* A showerhead device, furnished with one-half-inch IP thread to fit standard shower arms, designed to provide dispersed water flow and contain built-in mechanism to reduce the amount of water allowed to flow when operating. The device is also capable of automatically cleaning debris such as mineral deposits, rust scale or other impurities from the water channels or pores located in the showerhead without the use of special tools.

*Owner:* Any individual, association, nonprofit corporation, professional association, joint stock company, corporation, proprietorship, partnership or joint venture, having a freehold interest in a facility listed in section 7738.00 herein.

*Spray tap:* A faucet, which delivers water in a broad pattern of droplets and is capable of reducing the flow rate to one or two (2) gallons per minute (gpm).

*Water conservation retrofit:* The modification and/or replacement of fixtures or trim with fixtures and trim not exceeding the following flow rates and/or water usage. These rates are based on a pressure at the fixture of twenty (20) to eighty (80) psi.

	<b>Gallons</b>
(1) Toilets, tank type, per flush	1.6
(2) Urinals, tank type, per flush	1.0
(3) Showerheads, per minute	2.5
(4) Bathroom and kitchen faucets, per minute	2.2

#### **Section 7740.00. WATER CONSERVATION STANDARDS**

.010 *Toilets.* The owner of a facility listed in section 7738.00 herein, where such facility itself, or the individual tenants or users of such facility are city water utility customers, shall install and maintain toilet(s) conforming to the specification indicated in section 7739.00.

.020 *Enforcement.*

.021 As of May 23, 1990, the violation of Section 7737 through section 7740 of the Upland Municipal Code shall be a misdemeanor offense and upon conviction, any person violating these sections shall be punished by a fine of not less than one hundred dollars (\$100.00), nor more than two hundred dollars (\$200.00) or by imprisonment in the county jail not exceeding six (6) months or both.

.022 An alleged violator of this chapter shall be given written notice thereof and seventy-two (72) hours within which to install, repair or replace the required water conservation devices. Failure to do so will give rise to a presumption of intent to violate this chapter thereafter.

.023 Each day a violation of this chapter continues shall constitute a distinct and separate offense.

.024 Nothing herein shall limit the City's authority to seek injunctive or other civil relief available under the law.

#### **Section 7741.00. WATER CONSERVING PLUMBING FIXTURES FOR NEW CONSTRUCTION**

- .010 No certificate of occupancy shall be issued for any new construction unless all plumbing fixtures to be installed meet the requirements set forth in subsection .020 notwithstanding compliance with any other building or plumbing code. As used in this section, new construction means any construction of a previously nonexistent structure requiring a building permit or other discretionary permit issued after the effective date of the ordinance adopting this section.
- .020 *All plumbing fixtures installed in new construction shall meet the following requirements:*
- .021 Toilets and associated flush valves shall be rated at not more than 1.6 gallons per flush,
- .022 Urinals and associated flush valves shall be rated at not more than 1.0 gallon per flush,
- .023 Showerheads shall have a rated flow of 2.5 gallons per minute or less,
- .024 Bathroom faucets shall have aerators or laminar flow devices together with flow control inserts; valves, devices or orifices that restrict flow to a maximum of approximately 2.2 gallons per minute.
- .025 City staff shall advise all persons seeking permits for new construction of the plumbing fixture requirements set forth in this section.

**Section 7742.00. REQUIREMENTS FOR INSTALLATION OF WATER  
CONSERVING TOILET FIXTURES**

- .010 *Definitions.*
- .011 Water-Conserving Toilet Fixture: Any toilet and associated flush valve that use no more than 1.6 gallons of water per flush or urinals and associated flush valve that use no more than 1.0 gallons of water per flush.
- .020 *Mandatory Retrofit of all Toilets With Water Conserving Toilet Fixtures.*
- .021 All existing toilets in existing structures receiving water from the City's water system shall be retrofitted, if not already done, exclusively with water-conserving toilets as defined in Section 7742.020 of this ordinance on, or before July 1, 2006.
- .030 *Compliance and Penalties.*
- .031 If the retrofit installation required by this regulation is not completed by the required date and the City later determines or finds that the work was not done or was not completed or that the water conserving



toilet fixtures are no longer present, the City may, at its discretion assess a fine of \$500 to the owner of the property. Prior to the imposition of any fine the owner of the property will be provided a cure period of 30 days to demonstrate that the required retrofit work has in fact been done. A site inspection shall be required in such cases and the owner shall be charged a penalty of \$50 for each such site inspection as an added fee on the owner's plumbing permit. If the owner of the property fails to complete the required work after 30 days, water to the property shall be shut-off until such time as the property owner demonstrates compliance with this section.

*.032 Variances and Exemption.*

.0321 Any owner of real property may seek a variance or exemption from the retrofit requirement. The process shall be as set forth in Section 7736.00.

**Section 7743.00. LANDSCAPE GUIDELINES**

*.010 Purpose.*

.011 To promote the values and benefits of landscapes while recognizing the need to invest water and other resources as efficiently as possible; to suggest a structure for designing, installing, and maintaining water efficient landscapes in new projects; and to recommend provisions for water management practices and water waste prevention for established landscapes.

*.020 Landscape Design.*

.021 It is recommended that the owner consult with a landscape design Professional when designing a new landscape or renovating an existing landscape.

.022 Plants having similar water use shall be grouped together and served by a valve or set of valves with the same schedule.

.023 Plants should be selected appropriately based upon their adaptability to the climatic, geologic, and topographical conditions of the landscape site. Protection and preservation of native species and natural areas is encouraged.

*.030 Water Features.*

.031 Recirculating water should be used for decorative water features.

.032 Pool and spa covers are encouraged.

*.040 Irrigation Design.*

- .041 It is recommended that the owner consult with an irrigation professional when installing automatic landscaping systems.
- .042 Soil types and infiltration rate should be considered when designing irrigation systems. All irrigation systems should be designed to avoid runoff, low head drainage, over spray, or other similar conditions where water flows onto adjacent property, non-irrigated areas, walks, roadways, or structures. Proper irrigation equipment and schedules, including features such as repeat cycles, should be used to closely match application rates to infiltration rates therefore minimizing runoff.
- .043 Special attention should be given to avoid runoff on slopes and to avoid over-spray in planting areas with a width less than ten feet.
- .044 Controllers. Automatic control systems should accommodate all aspects of the design.
- .045 Valves. Separate valves should irrigate plants, which require different amounts of water. If one valve is used for a given area, only plants with similar water use should be used in that area.
- .046 Sprinkler Heads. Heads and emitters should have consistent application rates within each control valve circuit. Sprinkler heads should be selected for proper area coverage, application rate, operating pressure, adjustment capability, and ease of maintenance.
- .047 Rain Sensing Override Devices. Rain sensing override devices should be required on all irrigation systems.
- .048 Soil Moisture Sensing Devices. It is recommended that soil moisture sensing devices be considered where appropriate.
- .049 Recycled Water. Recycled water should be used when and where practical.
- .050 Automatic irrigation systems should be operated by an electric time controller set for early morning irrigation. The controller shall support a minimum of three start times per irrigation day per valve (station) and shall permit programming each valve with individual run times.

**SECTION 2.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Upland hereby declare that they would have adopted each section, subsection, sentence, clause,

phrase, or portion of this Ordinance, irrespective of the fact that anyone or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

The foregoing ordinance was PASSED, APPROVED AND ADOPTED by the City Council of the City of Upland on the 11th day of July, 2005.

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Kenneth W. Willis, Mayor Pro Tem

ATTEST:

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Stephanie A. Mendenhall, City Clerk

I, Stephanie A. Mendenhall, City Clerk of the City of Upland, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Upland held on the 27<sup>th</sup> day of June, 2005, and was adopted at a regular meeting of the City Council of the City of Upland on the 11th day of July, 2005, by the following roll call vote:

AYES: Mayor Pro Tem Willis, Councilmembers Musser, Thomas

NOES: None ABSENT: Mayor Pomierski, Councilmember Brant

ABSTAINED: None

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Stephanie A. Mendenhall, City Clerk